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November 5, 2001

BY HAND

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW B-204
Washington, DC 20554

Re: In the Matter of Federal-State Joint Board on Universal Service,
CC Docket No. 96-45

Dear Ms. Salas:

Transmitted electronically on behalf of the State of Alaska is a copy of the "Comments of the State of Alaska" for filing in the above-referenced docket. Copies are being sent to each member of the Federal-State Joint Board. We will transmit paper copies to you and to Ms. Todd, as set forth in the public notice, by mail. We are also transmitting a copy electronically to Qualex International.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,

Robert M. Halperin

Enclosure

cc: Federal-State Joint Board Members
Sheryl Todd (3 copies)
Qualex International

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on Universal Service	)	

JAN 17 2002

COMMENTS OF THE STATE OF ALASKA

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November 5, 2001

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SUMMARY

Telecommunications networks and basic services have advanced considerably since the FCC addressed the definition of universal service in 1996 and 1997. The Federal-State Joint Board and ultimately the Federal Communications Commission must now decide whether only some Americans or all Americans – including those residing in high-cost areas and in low-income households – will have access to health and safety, educational and other essential information resources necessary to participate meaningfully in the 21st century. The State of Alaska respectfully urges the Joint Board and FCC to seize the opportunity presented to them.

The State of Alaska makes four specific recommendations. First, the definition of voice grade access should be broadened to permit access to Internet and other information services at speeds for which 56 Kbps modems are designed.

Second, the Joint Board should recognize that in Alaska, the problems with delivering a transmission path capable of operating at 56 Kilobits per second ("Kbps") modem speeds are largely in the networks of the interexchange carriers, not those of the local exchange carriers or other eligible telecommunications carriers ("ETCs"). This fact arises out of the unique dependence of Alaskans on satellite-based services for both intrastate and interstate interexchange services. To effectuate the accomplishment of the public interest objectives underlying the broadened definition of voice grade access, the Joint Board should recommend that the Commission forbear from enforcing in Alaska the requirement of Section 254(e) that only ETCs may receive specific universal service support.

Third, the Joint Board should recommend that the Commission include limited support for intrastate toll calls made by low-income households in small , rural communities with a local calling area encompassing no more than 500 to 1000 access lines. The State recommends that the amount of such support fall within a range of between $10 and $18 per month.

Fourth, here, too, the Joint Board should recommend that the Commission forbear from enforcing the ETC-only requirement of Section 254(e) so that all interexchange carriers may receive support for providing this service.

The State believes, as explained in these comments, that these proposals meet the statutory criteria for adding services to the definition of universal services and the statutory criteria for forbearance.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on Universal Service	)	

JAN 17 2002

To: The Federal-State Joint Board on Universal Service

COMMENTS OF THE STATE OF ALASKA

INTRODUCTION

The State of Alaska ("State" or "Alaska") hereby responds to the Public Notice of the Federal-State Joint Board on Universal Service ("Joint Board") seeking comments on its review of the definition of universal service.[1] The Joint Board invited comments on whether the current list of nine "core" services eligible for universal service support should be modified.

Congress explicitly recognized that "[u]niversal service is an evolving level of telecommunications services that the Commission shall establish periodically . . . taking into account advances in telecommunications and information technologies and services." 47 U.S.C. § 254(c)(1). Telecommunications and information

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[1] Federal-State Joint Board on Universal Service, Public Notice, CC Docket No. 96-45, FCC 01-J-1 (rel. Aug. 21, 2001) (*"Public Notice"*). These comments address only some of the issues raised in the *Public Notice.*

technologies and services have undergone dramatic changes in the five years since the Commission last reviewed the list of "core" services. Consumers rely on new and different services for everyday communications than those they relied upon only a few years ago. The time has come for the Commission formally to recognize that access to information services, including the Internet, has become increasingly widespread and vitally important to households across America and those who do not have it will increasingly be ostracized in a manner that would be adverse to public health, public safety, education, community economic development, and the maintenance of an integrated Nation. Network services sufficient to support affordable access to information services, including the Internet, at speeds up to 56 Kbps should be added to the basket of "core" services to be supported by federal universal service programs.

In addition, as the Commission previously recognized, telephone subscription rates in many rural communities are relatively low in part because of the small local (*i.e.*, toll-free) calling areas with which service is offered.[2] In communities where calls to local schools, doctors, businesses and public safety officials are toll calls, subscription rates, particularly among low-income households, are reduced

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2 *See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, *Twelfth Report and Order*, 15 FCC Rcd. 12208, 12220, ¶ 20 (2000) ("*Twelfth Report and Order*"); *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, *Further Notice of Proposed Rulemaking*, at ¶¶ 30, 122 (rel. Sept. 3, 1999) ("*September 1999 FNPRM*").

because of the significant cost of toll calls. The State thus requests the Joint Board to recommend that limited support be available to low-income households for intrastate toll calls (and any state Subscriber Line Charges) in communities that have very small local calling areas.

At least in the context of Alaska, implementation of these positions would likely require forbearance from the requirement of Section 254(e) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, that universal service support (other than the schools and libraries and rural health care programs) be provided only to eligible telecommunications carriers ("ETCs").[3] As described below, limited forbearance both passes the statutory test for forbearance and is necessary if the expanded core services are to be delivered in Alaska (and perhaps elsewhere).

I. NEW CORE SERVICES ARE NECESSARY TO PROMOTE PUBLIC HEALTH, PUBLIC SAFETY, AND EDUCATION IN ALASKA.

Telecommunications and access to information services are important to assure the availability of necessary educational, health care, and public safety services and economic development throughout the Nation. These services are even more critical, however, for people living in vast rural areas of Alaska. Ironically, the reasons telecommunications and information services are critical in these areas

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[3] This section provides that only ETCs may obtain support for the provision of "core" services to residents of high-cost, rural and insular communities and to low-income consumers.

also make these services costly to deliver. Federal universal service support is necessary to address this problem.

Communities in rural Alaska differ substantially from rural communities in the rest of the United States. Most rural Alaskan communities are far smaller than rural communities elsewhere. Of the 349 geographic areas in Alaska, as defined by the U.S. Census Bureau, only four (Anchorage, Juneau, Fairbanks, and College Census Designated Place) are inhabited by more than 10,000 people.[4] There are only 52 areas of between 1,000 and 10,000 people.[5] Thus, approximately 293, or over 80 percent of, Alaskan communities have fewer than 1,000 people.[6] Ninety-three areas – over a quarter of the total – have fewer than 100 people.[7] Another 85 communities – almost another quarter of the total – have a population of between 100 and 250 people.[8] Outside of Anchorage, the population density of Alaska is only about 0.5 person per square mile.[9]

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4 *See* U.S. Census Bureau, Geographic Comparison Table for Alaska (April 1, 2000), *available at*, http://factfinder.census.org (last visited Oct. 22, 2001).

5 *Id.*

6 *Id.*

7 *Id.*

8 *Id.*

9 The state-wide population density of Alaska is approximately 1 person per square mile and roughly half of the State's population lives in Anchorage. "Labor Department Estimates Alaska's Population," *available at* http://sled.alaska.edu/akfaq/aksuper.html#pop (last visited Oct. 18, 2001).

Most Alaskan communities are also far more remote and isolated than rural communities in other states. In fact, Alaska is nearly equidistant from Japan, Europe, and Washington, D.C. It shares its only land border with Canada. Alaska's Little Diomede Island is only 2.5 miles from Russia's Big Diomede Island. Barrow, the northernmost community in Alaska is only 800 miles from the North Pole.

Most rural communities in Alaska do not have access to the three relatively urban areas of the State (Anchorage, Fairbanks, and Juneau) via road systems (either paved or gravel), and are thus isolated in a way relatively few other American communities are. State-wide, Alaska has only about 13,000 miles of public roads, only about 3800 of which are paved.[10] Although Alaska is more than twice the size of Texas, its land road mileage is more like that of Vermont.[11] Many Alaskan communities can be accessed only by air or by water. These forms of transportation are not only generally more expensive than land transportation, but also frequently not operational because of weather conditions.

Given the large landmass, the climate in Alaska is quite varied, but one almost universal characteristic is that the weather is extreme. Annual precipitation averages over 200 inches in southeastern Alaska and up to 150 inches

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10 These data were provided by the Alaska Department of Transportation, Office of the Commissioner.

11 *See* "FAQALASKA Frequently Asked Questions About Alaska," *available at* http://www.sled.alaska.edu/akfaq/aksuper.html (last visited Oct. 18, 2001).

along the northern coast of the Gulf of Alaska. Annual snowfalls have been as high as 975 inches (over 81 feet) at Thompson Pass. The coldest temperature in the Nation, minus 80, has been recorded at Prospect Creek, Alaska. Winds of up to 139 miles per hour have been experienced at Shemya, on the eastern end of the Aleutian Islands.[12]

All of these characteristics make the provision of telecommunications services in Alaska quite difficult and costly. Installing and maintaining telecommunications equipment in most parts of the State is a challenge. Simply traveling to many of these communities is not easy. Equipment, supplies and personnel must often be transported by plane or ship. Once materials arrive in these communities, construction of facilities is difficult. Facilities must be constructed to accommodate permafrost conditions and the harsh climate and terrain. The small population of most Alaskan communities also means that there are relatively few lines, by national standards, over which these costs can be spread.

Information resources are particularly scarce in these communities. Daily newspaper delivery is non-existent. Broadcast television and radio services are limited. Bookstores do not exist; libraries are few and have limited resources. Of the 93 communities with public library service in Alaska, only about 65 libraries have Internet connections. Libraries in small remote villages, frequently operated by volunteer staff, are typically open no more than 10 to 15 hours a week.

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[12] These data were provided by the Alaska Department of Transportation, Office of the Commissioner.

Accessibility to everyday amenities others take for granted – affordable and efficient transportation, health care, well-stocked grocery stores, entertainment options, shopping options, government services – does not exist in rural Alaska. Residents of these communities are isolated from the public services available to individuals in relatively urban areas where public information centers, bureaus and service agencies abound.

The lack of easy physical access to needed educational, public safety, and public health services make voice and electronic access to them particularly important. Yet, residents of scores of rural Alaska currently can access the Internet or other information services only via limited satellite communications services that are not sufficient to provide reliable access to these services at speeds comparable those available to most Americans. Even telephone calls to these entities are relatively expensive toll calls. Without federal universal service support, Americans who need affordable and reliable access to the Internet and other services to get information most other Americans take for granted will not be able to obtain it.

Section 254(c) lists four factors that the Joint Board and Commission must consider in evaluating services for universal service support. 47 U.S.C. § 254(c). The Joint Board and the Commission must consider the extent to which services:

(A) are essential to education, public health, or public safety;

(B) have, through the operation of market choice by customers, been subscribed to by a substantial majority of residential customers;

(C) are being deployed in public telecommunications networks by telecommunications carriers; and

(D) are consistent with the public interest, convenience, and necessity.

Id. at § 254(c)(1)(A)-(D).

It is important to emphasize that these factors are not minimum mandatory requirements.[13] Even if one or more factors were not present, the balance of these factors and the urgency of the need to be addressed could favor placing a service within the basket of "core" services to be supported. Each of the two services described below, however, satisfies each of these factors.

II. VOICE GRADE ACCESS SUFFICIENT TO PERMIT DIAL-UP INTERNET ACCESS AT 56 KBPS SHOULD BE ADDED TO THE BASKET OF UNIVERSAL SERVICES.

A. The Ability to Access to the Internet on a Dial-Up Basis at 56 Kbps Has Become Standard

The Joint Board specifically invited comments on whether it should recommend a broader definition of voice grade access to support better network transmission capability for Internet access than is provided through the current definition of voice grade access. As originally adopted, the Commission's universal service rules required that ETCs provide voice grade access at a frequency range between 500 to 4,000 Hz. The Commission, in its *Fourth Order on Reconsideration*,

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[13] *See In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, 12 FCC Rcd. 8876, 8808 ¶ 59 (rel. May 8, 1997) ("*1997 Report and Order*") ("The legislative history of this section instructs that [t]he definition . . . should be based on a *consideration of the four criteria* set forth in the subsection" (internal quotations omitted)).

redefined this minimum bandwidth requirement at a narrower level of 300 to 3,000 Hz *sua sponte* and without seeking comment.[14]

The State of Alaska shares the concerns of organizations such as the Rural Utilities Service of the U.S. Department of Agriculture ("RUS") and the National Association of Regulatory Utility Commissioners that this reduced bandwidth standard short-changes residents of rural, insular, and high cost areas and thwarts achievement of Congress's objective, set forth in Section 254(b)(3), of providing residents of these areas with access to telecommunications and information services at rates and terms that are "reasonably comparable" to those provided in urban areas.[15] As the Commission stated in its original Notice of Proposed Rulemaking, Section 254(b)(3) "directs us to go beyond the purpose and approach of the current Universal Service Fund (USF) program by focusing on the comparability of access to

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14 *See In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Fourth Order on Reconsideration*, 13 FCC Rcd. 5318, ¶ 16 (Dec. 30, 1997).

15 *See, In the Matter of Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, *Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service* (Sept. 29, 2000) (endorsing a standard supporting a 28.8 kbps modem speed); *In the Matter of Common Carrier Bureau Seeks Requests to Redefine "Voice Grade Access" for Purposes of Federal Universal Service Support*, CC Docket No. 96-45, *Comments of the Rural Utilities Service* (Jan. 19, 2000), *available at* www.usda.gov/rus/unisrv/01-19com.htm (concluding that "[t]he current voice grade access bandwidth requirement of 300 Hertz to 3000 Hertz is clearly insufficient"); Resolution on Definition of Voice Grade Service for Universal Service Purposes, adopted by the National Association of Regulatory Utility Commissioners, March 18, 1998 (recommending a phased-in 3,500 Hz bandwidth standard and noting that the "smaller bandwidth has an adverse effect on service in rural areas").

services available throughout the country, as well as on the comparability of rates."[16]

When the Commission issued its first order in the Universal Service proceeding five years ago, it believed its definition of voice grade access would effectively permit most citizens to access the Internet. The Commission stated, "It [the bandwidth approved in that order] usually enables customers to secure access to an Internet Service Provider, and, thus, to the Internet."[17]

Since that time, the growth of and reliance on the Internet by Americans (and others) have exploded. The U.S. Census has stated that "Internet use is rapidly becoming synonymous with computer availability." Thus, today almost anyone with a computer can access the public switched network to connect to the Internet and other information services. Of the fifty-four million American households with a computer in mid-2000, forty-four million households, or over 80 percent, also accessed the Internet from home. At the time of the First Report and Order in 1997, fewer than half of households with a computer accessed the Internet or other information services.[18] As demonstrated below, the Joint Board should

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16 *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Notice of Proposed Rulemaking and Order Establishing Joint Board*, 11 FCC Rcd. 18092, 18102 ¶ 14 (March 8, 1996).

17 *1997 Report and Order, at* 8822, ¶ 83.

18 *See* United States Department of Commerce News, *9-in-10 School-Age Children Have Computer Access; Internet Use Pervasive, Census Bureau Reports* (Sept. 6, 2001), *available at* http://www.census.gov/Press-Release/www/2001/cb01-147.html; *see also See* U.S. Census Bureau, *Home*

(continued...)

recognize that conditions have changed to the point that access to Internet service now meets the definition of a "core" "universal service. Recent statistics also suggest that the standard connecting speed has become 53 Kbps for downloads and 31.2 Kbps for uploads – the standard speeds achieved with a 56 Kbps modem.[19]

B. Dial-Up Access to the Internet at 56 Kbps Meets the Definitional Criteria for Universal Service Support in Section 254(c).

Given these changes, the existing voice grade access standard should be revised to an access standard sufficient to support access to information services at speeds for which 56 Kbps modems are designed. Federal universal service support should be provided for any necessary improvements to public carrier networks.

In January 2001, the RUS filed comments in the Commission's universal service docket recommending the adoption of a voice grade access specification that has both a frequency bandwidth component ***and*** a specific modem speed capability

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(...continued)

Computers and Internet Use in the United States: August 2000, at 2 (Sept. 2001) (hereinafter *U.S. Census Bureau Internet Study*), *available at* hyperlink embedded in text at http://www.census.gov/Press-Release/www/2001/cb01-147.html. Compare these numbers to 1997, when fewer than half of all households with a computer accessed the Internet. *See U.S. Census Bureau Internet Study* at 2.

[19] A 56 Kbps modem generally is capable of receiving downloads of up to 56 Kbps and sending at up to 31.2 Kbps. Current FCC regulations on power output restrict receiving speeds to 53 Kbps. In the interests of brevity, this section occasionally refers to the above asymmetric transmission speeds as "56 Kbps."

requirement.[20] RUS also urged the Commission to set aside the standard of 300 to 3,000 Hz adopted in December of 1997,[21] and accept a frequency range closer to that currently used by AT&T and Bellcore, which ranges from a low of 200 Hz to a high of 3,200 to 3,500 Hz. The State agrees with these positions.

1. A Substantial Majority of Residential Customers use Telecommunications Networks Capable of Providing Internet Access at 56 Kbps.

A substantial majority – roughly 60 percent – of residential customers have, through the exercise of market choice, obtained access to the Internet or other information services. As of the second quarter of 2001, approximately 64.7 million

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20 *See In the Matter of Requests to Redefine "Voice Grade Access" for Purposes of Federal Universal Service Support*, CC Docket No. 96-45, *Comments of the Rural Utilities Service*, (Jan. 19, 2000) (noting the need for a bandwidth requirement to provide network and modem designers with engineering parameters, but stating that "[s]ince there seems to be no publicly-available data on plant bandwidth, phase integrity and noise incursion, but there is data on modem speed performance, the time has come to specify the performance of voice grade access in terms of both bandwidth and modem speed capability."), *available at* www.usda.gov/rus/unisrv/01-19com.htm.

21 *See id.* The American National Standard Institute ("ANSI"), a source cited by the Commission for the December 1997 change, does not appear to have developed a specific standard devoted to voice grade access frequencies and simply references voice grade access in a definitional section as "generally [having] a frequency range of about 300 to 3000 Hz." *See* ANSI Standard T1.401.02-2000, *Network-to-Customer Installation Interfaces – Analog Voicegrade Switched Access Lines with Distinctive Ringing Features* (Nov. 2000), at 2. The modem speeds actually achieved by a majority of Americans demonstrate that, in practice, this range is broader. *See* discussion of modem speeds, *infra*, at pp. 14-16.

U.S. households subscribed to online services.[22] There were 105.5 million U.S. households in 2000.[23] Using historical growth rates, we estimate that there are approximately 106.6 million U.S. households in 2001.[24] Thus, it appears that, as of mid-2001, approximately 60.7 percent of U.S. households accessed the Internet or other information services over one or more network mechanisms.

According to studies performed by Nielsen/NetRatings, an Internet audience measurement service connected to Nielsen Media Research, "58 percent of all Americans had subscribed to services providing access to the Internet or other information services to and from their homes in July 2001, as compared to 52 percent last year."[25] In July 1999, by contrast, only 39 percent of all Americans

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22 *See* Telecommunications Reports, *TR's Online Census* (August 2001), *available at* http://www.tr.com. This 64.7 million figure represents subscribers from major ISPs only and excludes international subscriber figures where available (*i.e.*, AOL's 6 million non-U.S. members). Another online source estimates total U.S. ISP subscribership at roughly 95 million. *See Ranking Internet Service Providers by Size* (Sept. 6, 2001), *available at* http://www.jetcafe.org/~npc/isp/large.html.

23 U.S. Census Bureau, *Households and Families* (Sept. 2001), available at http://www.census.gov/main/www/cen2000.html.

24 Pre-2001 household projections show an estimated average national growth of 1.1 million households per year over the last decade, suggesting that there are approximately 106.6 million households in the U.S. in 2001. *See* U.S. Census, *Households by Type: 1940 to Present* (June 29, 2001), *available at* http://www.census.gov/population/socdemo/hh-fam/tabHH-1.txt. 64.7 million divided by 106.6 million equals 60.7 percent.

25 *See Internet Captures 63 Percent Growth in the Past Two Years, According to Nielsen//NetRatings* (Aug. 13, 2001), *available at* hyperlink found at http://www.nielsen-netratings.com/news.jsp?thetype=date&theyear=2001&themonth=7.

accessed the Web.[26] Internet usage has been growing rapidly, and there is no reason to expect that rates of Internet access have plateaued. In fact, market analysts forecast continuing growth.[27]

Moreover, Internet usage at speeds of 56 Kbps or above has been growing rapidly and public switched networks generally support these increased speeds. According to a Nielsen/NetRatings study comparing statistics from December 2000 to December 1999, "More people currently connect at 56 Kbps than any other Web speed, jumping 87 percent in the past year. In comparison, a year ago, most people accessed the Internet with a connection speed of 28.8/33.6 Kbps."[28] There is no reason to expect the trend in favor of higher speed connections to be reversed either. Indeed, subscription to even more expensive advanced or high-speed

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26 *Id.*

27 *See, e.g.*, Price Waterhouse Coopers, A History of E-Business (Oct. 2001) (noting that North American Internet use is expected to grow to 231 million users by 2005), *available at* http://e-business.pwcglobal.com/external/ebib.nsf/docid/6AE26BEB326D5CC980256906004EAC7F?opendocument (visited on October 22, 2001); Internet Demographics and eCommerce Statistics (projecting worldwide Internet use growth from 121 million in 1998 to 377 million in 2003), *available at* "Internet Growth Worldwide" hyperlink at http://www.commerce.net/research/stats/ (visited on October 30, 2001).

28 *See Broadband Access Soars Nearly 150 Percent at Home, According to Nielsen/NetRatings* (Feb. 8, 2001), *available at* hyperlink found at http://www.nielsen-netratings.com/news.jsp?thetype=date&theyear=2001&themonth=1.

communications services to access the Internet and other information services is growing as well.[29]

2. Telecommunications Services Sufficient to Support Access to the Internet or Other Information Services at 56 Kbps Are Being Deployed in Public Telecommunications Networks by Telecommunications Carriers.

Several different sources confirm that the "vast majority of phone lines in North America" support 56 Kbps modem speeds, *i.e.*, downloads at 53 Kbps and uploads at 31.2 Kbps. As one report states, "U.S. Robotics' own tests have shown that the vast majority of phone lines in North America support x2 [56 Kbps] technology."[30] 56 Kbps is now recognized as the standard modem speed and

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29 *See* FCC Common Carrier Bureau, Industry Analysis Division, *High-Speed Services for Internet Access: Subscribership as of December 31, 2000*, at Table 3 (August, 2001) (showing that residential and small business high-speed line usage nearly tripled from 1.8 million lines in 1999 to 5.2 million lines in 2000); ISP-Planet, *16 Million + High-Speed Homes by 2004* (Jan. 28, 2001) (projecting that U.S. residential high-speed subscribership levels will increase 500% from 3.3 million in 2000 to 16.6 million in 2004), *available at* http://www.isp-planet.com/research/broadband_growth-1-28-00.html (visited on October 31, 2001).

30 Modems FAQ (2001) *available at* http://www1.sympatico.ca/help/Learn/FAQ/x2.html; *see also* 56K Modems: X2, v.90, K56Flex (2000) ("[T]rials involving thousands of calls (conducted by U.S. Robotics and Lucent Technologies) in a multitude of regions have shown that a preponderance of those calls were able to achieve the faster 56K speeds."), *available at* http://info/ipinc.net/support/faqs/56k.html; V.90 FAQ (2000) ("Testing initiative[s] have determined that a vast majority of phone lines in North America can support 56K."), *available at* http://www.accesscom.com/system/56k/why56k.html.

modems operating at lower speeds are hardly sold in the United States anymore.[31] Clearly, telecommunications carriers are capable of providing network services transmissions sufficient to allow Internet access at standard speeds achieved by 56 Kbps modems to most Americans.

3. Networks Sufficient to Access the Internet at 56 Kbps Are Essential to Education, Public Health, or Public Safety.

The Internet has become an essential resource to American education, public health, and public safety. In mid-2000, two out of three children aged six to seventeen had access to a computer at home, and four out of five actually used a computer at school.[32] As access to the Internet becomes more widespread, children increasingly rely on the Internet as a research tool. Over two-thirds of teenagers reported using the Internet as their major resource when tackling a substantial

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31 *See* Annabel Z. Dodd, *The Essential Guide to Telecommunications*, 239 (2d ed. 2000) ("[S]tandard modem speeds have increased from 300 BPS to 56,000 BPS."); *V.90 Modem Standard*, ("In 1998, 56K modems really hit their stride . . . . and consumers have adopted widespread use of V.90 [56 K] modems."), *available at* http://www.v90.com/; *Overview of V.90 Modem Standard*, ("Very likely, V.90 will be the *final* analog modem speed standard. . . . Analysts predict that modem sales will grow to about 75 million modems sold per year by 2000. Almost all of these will be V.90."), *available at* http://www.v90.com/overview.htm; *Modem Speed*, ("There has been over the last years a major improvement in speeds of modems . . . to the current 56K modems according to the V.90 standard, as they have become the standard for modem connections to the Internet."), *available at* http://www.helmig.com/j_helmig/modemv90.htm; *Handy Information on Modems*, ("The current popular modem speed is 56k. The previous favorites in descending speed order were 33.6k, 28.8k, 14.4k, and on down.") (2001), *available at* http://www.tui.edu/Help/Modems.html.

32 *See U.S. Census Bureau Internet Study* at 5.

school project.[33] Beyond serving as a mere tool for learning, the Internet can serve as the teacher, too. Distance learning will be offered by 3,300 American schools by the 2003.[34]

The Internet is also a powerful tool parents can use to monitor their children's education. President Bush's 2001 educational reform plan includes a provision requiring all States to publish school report cards via the Internet "[t]o arm parents with information."[35] Many schools and classrooms have already established portals containing information such as homework assignments and school news. These portals, too, are designed to keep parents informed of their children's educational progress; they fail to achieve their intended purpose if parents lack Internet access.

Access to the Internet or other information services has also become essential to public health and safety. Even before recent events, Americans used the Internet

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33 *See* Poll: USA Split on Use of Net in Schools (Aug. 20, 2001), *available at* http://www.usatoday.com/life/cyber/tech/2001-08-20internet-schools-poll.htm.

34 *See* Remarks of Bruce P. Mehlman, Assistant Secretary of Commerce for Technology Policy, "The Bush Administration's High Tech Agenda," (June 26, 2001), *available at* http://www.ta.doc.gov/Speeches/Mehlman-010626.htm.

35 *See* A Blueprint for New Beginnings: Strengthen and Reform Education, White House Press Page (2001) (noting Bush educational reform plan measure), *available at* http://www.whitehouse.gov/news/usbudget/blueprint/bud03.html; Teaching Social Studies with the Internet (Nov. 1999) (noting availability of portals), *available at* http://www.ed.gov/databases/ERIC_Digests/ed435582.html.

to make more informed healthcare decisions.[36] The need for this information is particularly great in high-cost areas, which tend to be rural and often lack easy access to health care providers, and among low-income consumers, who often fail to receive needed health care services.

According to Bruce Mehlman, Assistant Secretary for Technology Policy of the U.S. Department of Commerce, the Internet plays a critically important role in the dissemination of information on current events in a manner necessary to protect public safety in the post-September 11 world:

> On September 11th, technology really came through. Take the Internet. As millions of Americans observed the horrible events unfold, phone lines jammed and cellular networks overloaded. But email kept going through and web sites stayed up, maintaining critical communications and information dissemination. AOL reports its users transmitted 1.2 billion instant messages that day, 20% more than normal, with no problems.[37]

Assistant Secretary Mehlman also noted the importance of the Internet in bringing "real-time news to reassure a nervous public, with government sites seeing more than 20 times normal traffic," and its role in facilitating fundraising efforts.[38]

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36 *See* Closing the Digital Divide with Broadband Internet Access, at 5 (Sept. 2000), *available at* http://www.nasire.org/hotissues/telecom.

37 Remarks by Bruce P. Mehlman, Assistant Secretary for Technology Policy, "Maximizing Technology's Contribution to American Security and Prosperity" (October 9, 2001), *available at* http://www.ta.doc.gov/Speeches/BPM_011009_AmerSecurity.htm.

38 *See id.*

Beyond these criteria, the ability to access the Internet or other information services simply has become an integral part of the average American's daily life. Three-fourths of all American Internet users check their e-mail at least once a day; other popular uses include searching for information, checking news, taking a course, performing job-related tasks, and shopping and paying bills.[39] Residents of rural, remote areas must have access to the Internet and other information services to obtain the increasingly valuable political, educational, economic, and social resources needed to participate in the public affairs of this Nation.

Given the information provided above, it is clear that the speed at which access to these necessary sources of critical information should be supported is 56 Kbps, the industry standard speed to which most Americans have access.

4. Network Services Sufficient to Support Access to the Internet and Other Information Services at 56 Kbps Are Consistent with the Public Interest, Convenience, and Necessity.

Network services capable of supporting 56 Kbps modem speeds serve the public interest, convenience, and necessity because without these services, residents of rural or otherwise remote areas and low-income Americans will be left behind. Rural Alaskans now generally are not able to access the Internet in a manner comparable in reliability and speed to the manner in which residents of more urban

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39 *See* Data and Trends, Congress Online Project (2001), *available at* http://www.congressonlineproject.org/statistics.html.

areas of the U.S. access the Internet, and adherence to the universal service provisions of Section 254 requires that this situation be changed.

In most Alaskan communities, no toll-free or local dial-up Internet access (outside of any schools in the community) at any speed is reliably available. The only access to the Internet or other information services presently available to many residents and businesses in these communities is via a long distance carrier that uses a satellite-based communications system to provide long distance service to and from these communities.[40]

This situation creates two universal service problems. First, according to the websites of leading Alaskan long distance companies, toll rates generally run 10 to 25 cents per minute.[41] If a user spends twenty hours per month on the Internet, those long distance charges would total at least $120.00 per month.

Second, even at this high cost, the service is not comparable to access in other portions of the Nation due to vagaries in the long distance satellite service. Satellite "hops" and weather and other conditions introduce error and time delays in transmissions. Currently most dial-up customers are limited to 14.4 Kbps

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40 Schools may also have access via other means funded largely by the schools and libraries program established pursuant to Section 254(h).

41 The lower rates are for interstate calls. With respect to intrastate toll calls, the Regulatory Commission of Alaska ("RCA") is considering intrastate access charge reform. If the RCA institutes a state Subscriber Line Charge (SLC), then state toll rates may decline, but rural customer bills for access to the long distance network may still be relatively expensive due to SLC or associated fees.

transmission speeds, if connections work at all.[42] It is in the public interest to give residents of rural, insular, and high cost areas the same ease of access to the Internet that their urban neighbors experience, and at "reasonably comparable" rates. 47 U.S.C. § 254(b)(3).

III. THE COMMISSION SHOULD FORBEAR FROM APPLYING SECTION 254(e) SO THAT INTEREXCHANGE CARRIERS THAT ARE NOT ETCs CAN OBTAIN SUPPORT FOR NETWORK UPGRADES IN VERY LIMITED CIRCUMSTANCES.

Section 254(e) of the Act permits the provision of universal service support under the high-cost and low-income programs only to a certified ETC. The Commission should forbear from enforcing this requirement as applied to interexchange carriers operating in Alaska where enforcement would frustrate the purposes of expanding the definition of universal service to include network improvements to permit access to the Internet at 56 Kbps, as set forth above.

Alaska is the only state whose residents must rely on the satellite-based networks of interexchange carriers ("IXCs") for both intrastate and interstate long distance communications.[43] This unique status underscores the need to provide support to IXCs to permit upgrades to their networks and warrants a narrowly

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42 GCI Communication, Inc., serves a portion of the rural market and has the capability in some villages to provide dial-up data speeds above 14.4 Kbps for customers making arrangements for this capability.

43 In some areas of the State, other non-wireline technologies (microwave) are used as part of the interexchange network. These facilities are subject to many or most of the same problems in Alaska as satellite technology. These facilities might also require upgrading. References to problems of satellite technology should be read to encompass these facilities as well.

fashioned forbearance order. Otherwise, the objective of providing such support, as set forth above, will be frustrated. Specifically, the State urges the Joint Board to recommend that the Commission provide universal service support (and forbear from enforcing Section 254(e)'s direction that only ETCs receive high-cost and low income universal service support) for improvements to the networks of IXCs sufficient to permit dial-up access to the Internet and other information services at 56 Kbps in high-cost areas of Alaska.

Congress stated that "consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas." 47 U.S.C. § 254(b)(3). Without forbearance permitting universal service support for IXCs to upgrade their largely satellite-based network services, the rural and urban divide will only grow wider.

A. Rural Alaska Depends On Satellite Service for Access to Interexchange and Information Services.

Alaska is the only state in which residents of rural high-cost communities are heavily dependent on satellite-based networks for both intrastate and interstate interexchange services. Interexchange services in other states – even in their rural areas – are provided mostly by landlines, and those landlines often connect to fiber optic backbones. Even where wireless carriers are ETCs, interexchange services are

not provided by satellites.[44] Yet, as the Joint Board and Commission already know, because of several factors set forth in Section I, above, including the remoteness, harsh terrain, sparse population and unforgiving climate, most portions of Alaska lack land-based access to interexchange services. The stringing or burying of long distance facilities is either impossible or impractical.

Local exchange facilities cannot be used to connect directly to the Internet and other information services in most, if not all, of rural Alaska; interexchange facilities and services must be used. Thus, the need for interexchange services to access the Internet means that these high-cost communities are generally dependent on satellite-based services for access to the Internet and other information services.

B. Forbearance From Section 254(e) is Essential in This Limited Circumstance to Permit Affordable Dial-Up Internet Access at 56 Kbps for Alaskan Consumers in High-Cost Areas Dependent on Satellite Communications.

Section 10 of the Communications Act, codified at 47 U.S.C. § 160, requires the Commission to forbear from applying a regulation or provision of the Act to a telecommunications carrier or service, or class of telecommunications carriers or services, in any or some geographic markets, if the Commission determines that:

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44 *See In the Matter of Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier for Pine Ridge Reservation in South Dakota*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 01-283, at ¶ 14 (rel. Oct. 5, 2001) (noting that in rural South Dakota, expanded toll-free calling areas can be provided by terrestrial wireless services, not satellite services).

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) forbearance from applying such provision or regulation is consistent with the public interest.

47 U.S.C. § 160(a). In addressing the public interest factor, the Commission must consider whether forbearance "will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services." *Id.* § 160(b). To satisfy the public interest criterion, a petitioner should show how the benefits of the statutory provision will be achieved if forbearance is granted.[45]

The State requests that the Joint Board recommend to the Commission that it forbear from enforcing Section 254(e) in a very limited circumstance. Forbearance should be granted to permit certain IXCs – those whose interexchange networks in high-cost areas of a state substantially rely on satellite-based communications services to provide interstate and intrastate services – to recover the costs necessary to provide the greater bandwidth sufficient to support 56 Kbps

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45 *See Petition of Ameritech Corp. for Forbearance from Enforcement of Section 275(a) of the Communications Act*, 15 FCC Rcd. 7066, ¶ 7 (Aug. 31, 1999) (citing *Policy and Rules Concerning the Interstate Interexchange Marketplace*, 14 FCC Rcd. 391, ¶ 31 (Dec. 31, 1998)).

modems at their standard speeds. This request, the State believes, satisfies the Act's statutory forbearance standard.

First, enforcement of that section's ETC-only requirement is unnecessary to ensure that access to information services at speeds and rates comparable to urban areas will be available on a just, reasonable, and non-discriminatory basis. *See id.* at § 160(1). In fact, forbearance is ***necessary*** to ensure comparable access on just, reasonable and non-discriminatory terms; failure to forbear would frustrate accomplishment of this objective. Residents of Alaska must rely on IXCs that use satellites to access the Internet and other information services. Customers statewide are unable to obtain service at transmission speeds for which 56 Kbps modem are designed, as the IXCs apparently do not find it profitable to make the investment necessary to support such services throughout Alaska.[46] Without forbearance from the ETC-only requirement, the purpose of revising the definition of voice grade access so as to provide transport speeds typical of a 56 Kbps modem would leave Alaskans in rural high-cost areas without improved services.

Second, enforcement of Section 254(e) is unnecessary for the protection of consumers. *See id.* at § 160(2). Far from being harmed by forbearance, consumers would be benefitted by it. They will receive new or improved access to critically

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46 These investments would be necessary to either the serving IXC's own network, or the facilities or services that IXC purchases from an underlying satellite services provider. For example, providing additional bandwidth necessary to offer access to the Internet or other information services reliably at 56 kbps may require the purchase of additional satellite capacity from the satellite service provider.

important information services on terms (speeds) similar to other Americans. Forbearance will allow IXCs using satellites to effectuate the purposes of Section 254 generally and the broadened bandwidth standard specifically because it will provide the funds needed to bring to rural Alaskans the same quality of access to information services other Americans already have.

Third, forbearing from enforcing the ETC-only requirement under these narrow conditions serves the public interest. *See id.* at § 160(3). Where satellites are used to reach an Internet service provider ("ISP"), it is in the public interest to grant universal service support to non-ETCs for improvements to their network to permit residents to access the Internet and other information services in a manner that is "reasonably comparable" to the manner of access enjoyed by the vast majority of other Americans.

Competition will not be thwarted by adding improved access to the Internet and other information services to the list of "core" services and forbearing from enforcing the ETC-only requirement. Indeed, it will introduce new levels of competition between interexchange carriers as they are given the ability to offer consumers the same access to information services available to other Americans today.

IV. LIMITED SUPPORT FOR INTRASTATE TOLL SERVICES FOR LOW-INCOME RESIDENTS IN AREAS WITH SMALL LOCAL CALLING AREAS SHOULD BE ADDED TO THE BASKET OF UNIVERSAL SERVICES.

The Joint Board has invited comments on whether intrastate or interstate toll services should be included in the list of supported universal services.[47] To alleviate the burdens associated with high toll charges for low-income residents residing in areas with a small local calling area, the State encourages the Joint Board to recommend that the basket of "core" services be expanded to include a credit in the range of $10 to $18 per month for intrastate toll calls made by low-income consumers residing in areas with no more than 500 to 1000 access lines.[48]

For most Americans, calls to local schools, hospitals, doctors, government officials and businesses are local calls. This is not the case in most rural Alaskan communities. These communities are so isolated and sparsely populated that these institutions and individuals are likely to be located in a different community and can be reached only by an intrastate toll call. Thus, in these communities, local exchange service is not comparable to local exchange service elsewhere.

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47 In its *Twelfth Report and Order*, the Commission noted that it was not then in a position to consider a proposal to provide support for intrastate toll charges because to do so would require an expansion of the definition of universal service. *See Twelfth Report and Order, at* 12238, ¶ 58. The Commission thus requested that the Joint Board issue a recommendation as to whether the Commission should include support for toll services in rural and insular areas. *Id.*

48 Thus, the term "small calling areas" refers to the number of access lines included within the local exchange area, not the size of the geographic area encompassed within the local exchange area.

The cost of intrastate toll calls in Alaska is very high. Among other things, local loop costs and local switching costs attributable to intrastate toll services in these communities are far higher than the national average. Intrastate transmission costs are also high. Intrastate toll charges in Alaska are a minimum of 14 cents per minute, and may be as high as 25 cents per minute.

In rural areas with small local calling areas, federal universal service programs for low-income consumers do not support the same level of services that are supported in larger or less isolated communities. These programs support only local exchange services. Low-income households in exchange areas with a small number of lines included in the local calling area must pay significant toll charges in addition to monthly local exchange service rates to obtain service comparable to local exchange service in other areas of the Nation. This disparity is at odds with the goals of universal service, specifically the goal of promoting "access to telecommunications and information services, including interexchange services and advanced telecommunications and information services that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas." *Id.* at § 254(b)(3).

The limited size of local calling areas is a significant problem not only because of the disparity created between the services supported in small, rural, isolated communities and those received by urban and suburban areas of the Nation, but also because it contributes to the lower telephone penetration rate in

these areas. Where local calling areas encompass calls to relatively few others and intrastate toll charges are costly, telephone service is not affordable to a significant portion of the population. The Commission has recognized this problem and has sought comment in the past on "the extent to which limited local calling areas impose a barrier to increased penetration in certain underserved areas."[49]

There are several potential solutions to the problems created by small local calling areas. One possible solution is simply to expand the size of local calling areas to include the nearest metropolitan area or community of interest.[50] There are three serious problems with this approach.

First, defining local calling areas is a matter of state, not federal, regulatory responsibility. Congress has assigned to state commissions the task of determining the terms and conditions of intrastate telephone services, including local exchange service.[51] Therefore, it does not appear that the Commission has the authority under the Communications Act to interfere with a state regulatory commission's delineation of local exchange calling areas.

Second, expanding local calling areas would shift some calls from interexchange services to exchange service. Because, particularly in remote, rural and isolated communities, interexchange services tend to be subject to more

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49 *September 1999 FNPRM, at* ¶¶ 30, 122.

50 *See Public Notice*, at 3 (inviting comment on whether "expanded area service" should be included in the basket of universal support services).

51 47 U.S.C. §§ 15(b), 221(b).

competition than local exchange services, this shift likely would unintentionally reduce competition in the provision of these calls.

Third, as the Commission has recognized, expanding local calling areas would likely cause upward pressure on local service rates.[52] This effect is plainly contrary to the goals of universal service.

Another possible solution has far more merit. The Commission has previously suggested that it "could provide support for calls outside of the local calling area that fall within specified federally-designated support areas."[53] This solution would mitigate the problem of limited local calling areas without (1) impinging on State regulatory authority; (2) shifting services from providers that likely are subject to some competition to providers that likely are not subject to competition; and (3) causing upward pressure on local exchange service rates.

This solution must, of course, be limited so as not to impose a significant additional burden on federal universal service support mechanisms. It must also be limited to circumstances in which the small size of local calling areas is likely a cause of relatively low penetration rates. Solutions that are so limited will not eliminate incentives for States to keep local rates affordable nor be unduly costly to the federal universal service program.

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52 *September 1999 FNPRM,* at ¶ 123.

53 *Id.*

The State believes that the appropriate support for intrastate toll services for low-income households in small local calling areas is an amount in the range of $10 to $18 per month. According to the Commission's 2001 *Statistics of the Long Distance Telecommunications Industry*, the national monthly average of intrastate toll minutes made by residential users in 1999 was 59 minutes. [54] The number of intrastate toll call minutes made by Alaskan households is likely to be significantly greater because of (1) small local calling areas; (2) impediments to travel; and (3) the isolation of Alaska from other parts of the U.S. In 2000, the average monthly intrastate toll minute usage for business and residential users in Alaska was 72 minutes.[55] Seventy-two minutes includes intrastate toll minutes of users located in Anchorage and other relatively urbanized areas of the State where calling areas are relatively large. The State thus requests that the amount of support for intrastate toll services be sufficient to support at least the average number of minutes of intrastate toll services for all Alaskans. This number likely understates the need in rural Alaskan areas with small local calling areas. The lower end of the State's recommended range of support would cover the national average of about 60

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54 Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, *Statistics of the Long Distance Telecommunications Industry*, Tbl. 17, at 26 (January 2001).

55 *See In the Matter of the Consideration of Reform of Intrastate Interexchange Access Charge Rules*, Staff Compilation of Data in Response to Orders 1 & 2, RCA Docket R-01-1, Appendix B, Interexchange Carrier Data, Customers by Number of Minutes (January 2000), *available at,* http://www.state.ak.us/rca/telecomm/Jan00min.xls (last visited Oct. 30, 2001).

minutes per month of intrastate toll calls at the minimum per minute intrastate toll charge in Alaska of 14 cents per minute. The upper end of the State's recommended range would cover 72 minutes per month of intrastate toll calls at a per minute intrastate toll charge in Alaska of 25 cents.[56]

This proposal would establish several eligibility criteria for additional federal support that would make sure that additional support is limited and directed to where it would be most useful. Like other low-income universal service support programs, additional support would be capped at a maximum amount and only those persons who satisfy an income-related test would be entitled to receive it. Moreover, a restriction limiting support to those residing in local calling areas with no more than 500 to 1000 access lines would direct support to locations where it is most needed.

A. Limited Support for Intrastate Toll Services in Small Local Calling Areas Satisfies the Four Statutory Factors for Universal Service Support.

Limited intrastate toll services in small local calling areas should be added to the basket of universal services. Without federal universal service support for these services, the disparity between the telecommunications services supported for low-

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[56] Undiscounted dial station rates vary by distance from 33 cents for the initial minute and 13 cents for each additional minute to 59 cents for the initial minute and 38 cents for each additional minute. *See* Alascom, Inc. Tariff Alaska P.U.C. No. 98 (effective Aug. 1, 1999). For a 30-minute intrastate toll call within 95-124 miles, the intrastate toll charge averages to approximately 25 cents per minute. *See id.* Quicker calls would effectively cost more on a per minute basis.

income consumers in small, remote and isolated communities with small local calling areas and the telecommunications services included in the universal service basket and used by the substantial majority of other consumers in this Nation is so great as to frustrate the universal service goals of the Congress, the Commission, and the Joint Board.

Indeed, this recommendation dovetails well with the prior recommendations set forth above. Support for limited toll calls in low-income households in rural areas with small local calling areas will provide some support for intrastate calls over improved networks to access the very important sources of information available on the Internet.

The support requested here easily satisfies the four factors set forth in Section 254(c). First, limited support for intrastate toll services to low-income households in communities with limited local calling areas is "essential to education, public health, or public safety." *See* 47 U.S.C. § 254(c)(1)(A). As set forth above, most residents of communities in small local calling areas cannot call schools, doctors, hospitals, or public safety officials without a hefty toll charge. It is especially critical for residents of these rural communities – especially in rural Alaska where the nearest school, doctor, hospital, or public safety office may be 50 or more miles away and difficult to reach due to geography and harsh weather conditions – to have affordable telephone service to reach these important numbers. It would also provide very limited support for calls to in-state ISPs who do not have a local dial-up service or toll-free service in a small rural community. Without the

requested universal service support, low-income residents with limited local calling areas are literally left stranded without critical communication links to important educational, health, and safety personnel. This situation is one that universal service programs were designed to address.

Second, limited support for intrastate toll calls in communities with small local calling areas should be added to the basket of universal services because a substantial majority of the country's residential customers obtain comparable services from their local exchange carrier. *See id.* at § 254(c)(1)(B). Most residential consumers in this Nation reside in urban or suburban areas and their local calling areas encompass calls to local schools, doctors, and public safety and public health services. Although, as the Commission has recognized, existing federal and state universal service support "may help to alleviate the financial burden of the excessive toll charges that low-income individuals on tribal lands incur when their local calling area does not encompass their community of interest,"[57] support for similar toll calls for low-income consumers in other communities with small local calling areas does not exist. Universal service support would promote Congress's requirement that universal service support mechanisms ensure that telephone service rates are comparable between and among the States.[58]

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57 *Twelfth Report and Order*, at 12238, ¶ 58 (emphasis added).

58 *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Ninth Report and Order and Eighteenth Order on Reconsideration*, 14 FCC Rcd. 20432, ¶ 38 (rel. Nov. 2, 1999).

Third, there can be no doubt that intrastate toll services "are being deployed in telecommunications networks by telecommunications carriers." *See id.* at § 254(c)(1)(C). Intrastate toll services are offered throughout the Nation as part of networks carriers use to provide service to the public. This service would likely not necessarily involve the construction or deployment of new facilities.

Fourth, providing limited support for intrastate toll charges for low-income residents of communities with small local calling areas is "consistent with the public interest, convenience, and necessity" for several reasons. *See id.* at § 254(c)(1)(D). It unquestionably would promote access to educational, public safety and public health officials, and other critical information sources because a toll call to these entities would be replaced by an essentially "toll-free" call.

Limited support would also help address the problem of low telephone penetration rates in small, isolated communities with a significant number of low-income households. Hefty intrastate toll charges discourage telephone subscribership in low-income households located in communities with small calling areas. Local service permitting calls without toll charges only to a small number of people is simply not as useful or valuable as local service permitting calls to thousands, tens of thousands, or even hundreds of thousands of people. The cost of intrastate toll calls can quickly make telephone service unaffordable to low-income households in small communities. Providing some support for those intrastate toll calls would address this problem and reduce that obstacle to increased telephone penetration rates.

Providing limited support for intrastate toll calls is also pro-competitive. The number of competing IXCs offering intrastate toll service is likely to be greater than (and is most unlikely to be less than) the number of ETCs offering local exchange service. Providing support for these services to IXCs, therefore, is likely to increase competition because more calls will be made in a competitive environment. Moreover, there is no State prohibition preventing Alaskan local exchange carriers from offering intrastate toll services through separate affiliates.[59] As the Commission recognized in its 1999 decision granting Bell Atlantic's application for authorization to provide long distance services in New York, "additional competition in telecommunications markets will enhance the public interest."[60]

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59 The State formerly had a policy of prohibiting the construction of duplicative earth stations in communities located in the Alaskan bush. That "Bush earth station policy" has now been repealed in Alaska. *Order Lifting the Restriction on Construction of Interexchange Exchange Facilities in Rural Areas*, RCA Docket R-98-1 (November 20, 2000). A proceeding to repeal the federal version of that same policy is awaiting Commission action. *See GCI Petition for Rulemaking* 7246 (filed Jan. 10, 1990)].

None of the local exchange carriers in Alaska is an affiliate of a Bell Operating Company. Therefore, the restrictions of Sections 271 and 272 of the Communications Act do not apply.

60 *In the Matter of Application of Bell Atlantic New York for Authorization Under 271 of the Communications Act to Provide In-region, InterLATA Service in the State of New York*, CC Docket No. 99-295, *Memorandum Opinion and Order*, 1999 FCC LEXIS 6522, ¶ 428 (Dec. 22, 1999). In that proceeding, the Commission dismissed the comments and economic studies of various commentors which sought to demonstrate the impact Bell Atlantic's entry would have on competition in the long distance market. The Commission found that the fact of additional competition is sufficient to promote the public interest without the need for fancy economic analysis. *Id.*

Finally, providing limited federal universal service support for these services will not increase the rates charged by local exchange or interexchange service providers. As compared to expanding local calling areas, this approach will not put upward pressures on rates for local exchange services by increasing the costs of providing local exchange services. Intrastate interexchange rates should not be affected either. The geographic rate averaging requirement of Section 254(g) of the Communications Act requires that the rates for intrastate interexchange services be uniform across an entire state. It is clear that most residents of a state would not be eligible for this support, either because they do not live in a qualifying local exchange area, or because they do not qualify as low-income households. Given that fact, implementation of this program would not give interexchange carriers an economic incentive to increase intrastate interexchange service rates. Moreover, the support itself will pay for many intrastate local calls, which should minimize the problem of uncollectable accounts.

B. The Commission Should Forbear From Applying Section 254(e) to Interexchange Carriers Providing Intrastate Toll Services to Low-Income Households With Small Local Calling Areas.

As set forth above, Section 254(e) of the Communications Act requires that only an ETC may receive universal service support under the federal high-cost and low-income programs. However, to offset the high costs of intrastate toll services with limited federal universal service support in small calling areas, IXCs, which generally are not ETCs, must be eligible for this item of universal service support. Thus, the State requests that the Joint Board recommend that the Commission

forbear from applying the requirement of Section 254(e) in these limited circumstances. In this way, residents in Alaska and other states in which low-income households reside in areas with a small number of access lines encompassed within the local exchange area can benefit from the universal service support provided to offset the high cost of intrastate toll services.

The State is asking for a narrowly-tailored forbearance from enforcement of Section 254(e) to permit IXCs to receive compensation directly from the universal service fund for the provision of intrastate toll services to low-income residents of small local calling areas. This forbearance request does not exclude ETCs that offer intrastate toll services directly or thorough a corporate affiliate (as may be required by state or federal statutes or regulations). Rather, the State is requesting that all carriers that provide these intrastate toll services to low-income households in limited local calling areas, be eligible for support from the universal service fund.

Forbearance in these limited circumstances is appropriate because it meets the statutory forbearance standard in Section 10 of the Act. First, enforcement of Section 254(e) in these limited circumstances is not necessary to ensure reasonable and nondiscriminatory charges, practices, classifications, or regulations. *See* 47 U.S.C. § 160(1). Forbearance will not lead to unjust, unreasonable, or non-discriminatory rates for any group of consumers. Inclusion of limited intrastate toll services in the basket of universal service and forbearance from Section 254(c)'s ETC-only requirement will stimulate competition in long distance services and will advance the offering of just, reasonable, and nondiscriminatory rates. It will reduce

the discrepancy in the scope of local exchange services offered to households in urban/suburban areas and those offered to households in remote, rural areas. These actions may even enhance the possibility that more ETCs will offer interexchange services (either directly or through corporate affiliates, as may be required by State or federal statutes or regulations, thus leading to increased competition. This increased competition, in turn, would further ensure that consumers receive service at just, reasonable, and non-discriminatory rates. In fact, without a forbearance order, low-income residents in small local calling areas in Alaska, who are generally dependant on satellite communications for intrastate toll calls, will continue to face high toll charges. Furthermore, forbearance from enforcement of Section 254(e) will permit all carriers, to receive the same federal universal service compensation to offset intrastate toll charges for low-income residents in small local calling areas.

Second, enforcement of Section 254(e) "is not necessary for the protection of consumers." *See id.* at § 160(2). To the contrary, forbearance from Section 254(e) is necessary to protect consumers. Low-income consumers in the qualifying areas will be protected because they will be able to receive support that makes their local exchange service more comparable to the service received by most Americans. They will be protected only if they are able to make essentially toll-free calls to their doctors, hospitals, and public safety officials, other information sources, and to the schools of their children. Moreover, these actions may increase the number of firms offering intrastate interexchange service. Increased competition would offer

consumers more choices and those additional choices protect consumers by operation of the marketplace.

Third, forbearance in these limited circumstances "is consistent with the public interest." *See id.* at § 160(3). In Section IV.A. of these comments above, we set forth the reasons why including limited support for intrastate toll calls would be "consistent with the public interest, convenience and necessity." Those four reasons – increased ability to call providers of essential educational, public heath and safety services; likely increase in telephone penetration rates; potential for increased competition; and no adverse impact on local or interexchange service rates – apply here as well.[61]

Federal support for intrastate toll services and forbearance from enforcement of Section 254(e) in this narrow set of circumstances would also be consistent with the principle of competitive neutrality. Pursuant to Section 254(b)(7) of the Communications Act, the Commission established "competitive neutrality" as an additional principle upon which it bases policies for the preservation and advancement of universal service.[62] In its *Twelfth Report and Order*, the

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61 We respectfully refer readers to Section IV.A. for a more thorough presentation of these points.

62 *See 1997 Report and Order*, at 8801, ¶ 46. The principle of competitive neutrality means: "Universal service support mechanisms and rules should be competitively neutral. In this context, competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another." *Id.* at ¶ 47.

Commission noted that providing "federal support to offset the cost of intrastate toll service . . . would raise issues of competitive neutrality to the extent that interexchange carriers would not be eligible to receive such enhanced Lifeline support."[63] As discussed above, adding limited intrastate toll services for low-income residents of small local calling areas to the basket of universal services and forbearing from enforcing Section 254(e) would reduce the problems created by small calling areas in a competitively neutral manner. It gives no particular category of carriers an unfair competitive advantage over others. As set forth above, the forbearance proposal, if adopted, would provide limited support for intrastate interexchange calls, whether carried by ETCs (where permitted), ETC affiliates (where permitted), or other providers of intrastate interexchange services.

CONCLUSION

For all of the reasons set forth above, the State respectfully requests the Joint Board to recommend that the definition of services eligible for federal universal service support in high-cost areas and to low-income consumers be changed to keep up with advances in technology and marketplace. Network improvements to permit telephone subscribers to access the Internet and other information services at transmission speeds at which standard 56 Kbps modems are designed to operate should be supported. To effectuate the accomplishment of the public interest objectives underlying this change, the Joint Board should

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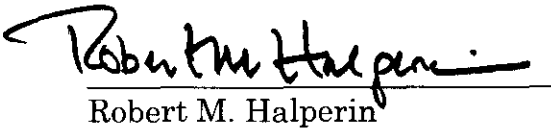
63 *Twelfth Report and Order*, at 12238, ¶ 58.

recommend that the Commission forbear from enforcing in Alaska the requirement of Section 254(e) that only ETCs may receive specific universal service support. The Joint Board should also recommend that the Commission include limited support for intrastate toll calls made by low-income households in small, rural communities with a local calling area encompassing no more than 500 to 1000 access lines. Here, too, the Joint Board should recommend that the Commission forbear from enforcing the ETC-only requirement of Section 254(e).

Respectfully submitted,

THE STATE OF ALASKA



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Date: November 5, 2001

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CERTIFICATE OF SERVICE

I hereby certify on behalf of The State of Alaska that a true and correct copy of the foregoing "Comments of the State of Alaska" was served electronically this 5th day of November, 2001, upon the following Federal-State Joint Board Members.

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